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November 8, 2011

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VIA ECF

The Honorable George A. O'Toole
John Joseph Moakley Courthouse
United States District Court
1 Courthouse Way
Boston, MA 02210

Re: ***United States v. Stryker Biotech et al.*, 09-CR-10330 (GAO)**

Dear Judge O'Toole:

We represent defendant Stryker Biotech LLC ("Biotech") in this matter. I am writing to call to the Court's attention the inadvertent omission of a letter the Defendants received from the Government during the course of discovery that is related to the Defendants' October 21, 2011 Motion to Compel Disclosure of Exculpatory Information Relating to the Government's Four Cooperating Witnesses ("Motion") [Dkt 152]. This Motion has been set for argument on November 9, 2011.

Within the Motion, Defendants set out a "summary of the communications between the Government and the Defendants" concerning the Defendants' requests for exculpatory materials. A summary of a March 18, 2010 letter from the Government was mistakenly not included in this section of the Motion. *See* Motion at p. 7-8. Defendants respectfully request that the Court also take into consideration the summary of this March 18, 2010 letter set forth below:

* * *

March 18, 2010 – Letter from USAO to Defendants, p. 4-5: The Government informed counsel for the Pleaders of their "potential exposure" under certain criminal statutes. For each of the Pleaders, the Government reported that it did "not believe any fraud loss or enhancement positions were taken by the government on the crime charged that are not reflected in the plea agreement." With respect to Shane Doyle, the Government stated that it informed his counsel that "if the fraud loss were based upon the full amount of the cost of units of OP-1 sold after submission of fraudulent IRB approvals, the loss could be in the range of hundreds of thousands to over a million dollars."

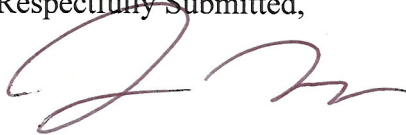
ROPES & GRAY LLP

Hon. George A. O'Toole

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Respectfully Submitted,



Joshua S. Levy

cc: Jeremy Sternberg, Esq.
Susan Winkler, Esq.
Gregory Noonan, Esq.
Defense Counsel of Record